

KENNETH E. KELLER (SBN 71450) kkeller@kksrr.com
MICHAEL D. LISI (SBN 196974) mlisi@kksrr.com
ANJALI K. KURANI (SBN 227075) akurani@kksrr.com
KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP
114 Sansome Street, 4th Floor
San Francisco, California 94104-3839
Telephone: (415) 249-8330
Facsimile: (415) 249-8333

Attorneys for Plaintiff Chanel, Inc.

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHANEL, INC., a New York corporation,

Plaintiff,

v.

SUSAN LYNNE PACINI a/k/a SUSAN L.
PACINI d/b/a PLANET TAN d/b/A MASTER
MARKETEERS, INC.,

Defendants.

Case No. C-07-5946-CRB

**PLAINTIFF CHANEL, INC.'S FIRST
AMENDED COMPLAINT FOR
DAMAGES AND INJUNCTIVE
RELIEF**

Honorable Charles R. Breyer
Courtroom: 8, 19th Floor

Plaintiff, CHANEL, INC., a New York corporation ("Chanel") sues Defendants SUSAN LYNNE PACINI a/k/a SUSAN L. PACINI ("Pacini") d/b/a PLANET TAN d/b/a MASTER MARKETEERS ("Pacini"); MASTER MARKETEERS, INC., a California corporation, d/b/a PLANET TAN d/b/a MASTER MARKETEERS ("Master Marketeers"), and DOES 1-10 (collectively "Defendants") and alleges as follows:

JURISDICTION AND VENUE

1. This action seeks to enforce 15 U.S.C. §§ 1114, 1116, 1121, and 1125(a). This Court has jurisdiction under 28 U.S.C. §§ 1331, 1332, and 1338. This action is one in which diversity of citizenship exists and the amount in dispute exceeds \$75,000. Venue is proper in this

1 Court under 28 U.S.C. § 1391 since the Defendants' principal place of business is within this
2 District and Defendants conduct business activities within this District. Furthermore, venue is
3 appropriate since a substantial portion of the acts giving rise to this case occurred within this
4 District.

5 **THE PARTIES**

6 2. Chanel is a corporation duly organized under the laws of the State of New York
7 with its principal place of business in the United States located at 9 West 57th Street, New York,
8 New York 10019. Chanel is, in part, engaged in the business of manufacturing and distributing
9 throughout the world, including within this Judicial District, handbags under the federally
10 registered trademarks CHANEL and CC MONOGRAM (collectively, the "Chanel Marks").

11 3. Pacini is an individual who, upon information and belief, conducts business within
12 this Judicial District at 2430 Sand Creek Road #1D1, Brentwood, California 94513, 14850
13 Highway 4 #163A, Discovery Bay, California 94514, 2669 Somersville Road, Antioch,
14 California 94509, 4701 Broomtail Court, Antioch, California 94531, and 8274 Brentwood Blvd.,
15 Brentwood, California 94513 and resides within this Judicial District at 2000 Cypress Pt.,
16 Discovery Bay, California 94514. Master Marketeers, Inc., is, upon information and belief, a
17 California corporation, conducting business at 3428 Deer Valley Road, Antioch, California
18 94531, and 8274 Brentwood Blvd., Brentwood, California 94513. Pacini and Master Marketeers
19 use at least the names "Planet Tan" and "Master Marketeers" as aliases to operate their business.

20 4. Upon information and belief, Pacini and Master Marketeers are directly and
21 personally engaging in the sale of counterfeit products as alleged herein.

22 5. Defendants Doe 1 through 5 are, upon information and belief, individuals who
23 reside and/or conduct business within this Judicial District. Further, Does 1 through 5 are directly
24 and personally contributing to, inducing, and engaging in the sale of counterfeit products as
25 alleged herein as partners, business associates, collaborators, or suppliers to the named
26 Defendants. Plaintiff is presently unaware of the true names of Does 1 through 5. Plaintiff will
-- amend this Complaint upon discovery of the identities of such defendants.

6. Defendants Doe 6 through 10 are business entities which, upon information and belief, reside and/or conduct business within this Judicial District. Moreover, Does 6 through 10 are, upon information and belief, directly engaging in the sale of counterfeit products as alleged herein as partners, business associates, collaborators, or suppliers to the named Defendants. Plaintiff is presently unaware of the true names of Does 6 through 10. Plaintiff will amend this Complaint upon discovery of the identities of such defendants.

COMMON FACTUAL ALLEGATIONS

7. Chanel is the owner of the following trademarks protected by the following U.S. Federal Trademark registrations:

Mark	Reg. No.	Reg. Date
CC MONOGRAM	1,734,822	November 24, 1992
CC MONOGRAM	1,314,511	January 15, 1985
CC MONOGRAM	3,025,934	December 13, 2005
CHANEL	0,626,035	May 1, 1956
CHANEL	1,347,677	July 9, 1985
CHANEL	1,733,051	November 17, 1992
CC MONOGRAM	3,022,708	December 6, 2005

The Chanel Marks are registered in International Class 18 and are used in connection with the manufacture and distribution of, among other things, handbags and wallets.

8. The Chanel Marks have been used in interstate commerce to identify and distinguish Chanel's high quality handbags, wallets, and other products for an extended period of time.

9. The Chanel Marks have never been assigned or licensed to any of the Defendants in this matter.

10. The Chanel Marks are symbols of Plaintiff's quality, reputation, and goodwill and have never been abandoned.

1 11. Further, Chanel has expended substantial time, money, and other resources
2 developing, advertising, and otherwise promoting the Chanel Marks. The Chanel Marks qualify
3 as famous marks as that term is used in 15 U.S.C. § 1125(c)(1).

4 12. Plaintiff has extensively used, advertised, and promoted the Chanel Marks in the
5 United States in association with the sale of handbags, wallets, and other goods and has carefully
6 monitored and policed the use of the Chanel Marks.

7 13. As a result of the Plaintiff's efforts, members of the consuming public readily
8 identify merchandise bearing the Chanel Marks as being high quality merchandise sponsored and
9 approved by Chanel.

10 14. Accordingly, the Chanel Marks have achieved secondary meaning as an identifier
11 of high quality products, including handbags, wallets, and other goods.

12 15. Upon information and belief, at all times relevant hereto, Defendants in this action
13 had full knowledge of Chanel's ownership of the Chanel Marks, including its exclusive right to
14 use and license the Chanel Marks and the goodwill associated therewith.

15 16. Chanel has discovered Defendants are promoting, and otherwise advertising,
16 distributing, selling, and/or offering for sale counterfeit products, including at least handbags and
17 wallets bearing trademarks which are exact copies of the Chanel Marks (the "Counterfeit
18 Goods"). Specifically, upon information and belief, Defendants are using Chanel's Marks in the
19 same stylized fashion for different quality goods.

20 17. Upon information and belief, Defendants' Counterfeit Goods are of a quality
21 substantially different from Chanel's genuine goods. Defendants, upon information and belief,
22 are actively promoting, and otherwise advertising, distributing, selling, and/or offering for sale
23 substantial quantities of their Counterfeit Goods with the knowledge that such goods will be
24 mistaken for the genuine high quality products offered for sale by Chanel. The net effect of
25 Defendants' actions is to confuse consumers who will believe Defendants' Counterfeit Goods are
26 genuine goods originating from and approved by the Chanel.

1 18. Upon information and belief, Defendants advertise their Counterfeit Goods for sale
2 to the consuming public. In advertising these products, the Defendants use Chanel's Marks.
3 Indeed, Defendants, upon information and belief, misappropriated Chanel's advertising ideas and
4 business styles with respect to Chanel's genuine products. Upon information and belief,
5 Defendants misappropriated Chanel's advertising ideas in the form of Chanel's Marks, in part, in
6 the course of Defendants' own advertising activities. Defendants' acts are the proximate cause of
7 damage to Chanel.

8 19. Upon information and belief, Defendants are conducting their counterfeiting
9 activities at least within this Judicial District and elsewhere throughout the United States.
10 Defendants' infringement and disparagement of Chanel's trademark rights are not simply a
11 mistaken description of their goods or a mere failure of the goods to conform to advertised quality
12 or performance. By their activities, Defendants are defrauding Chanel and the consuming public
13 for their own benefit.

14 20. Defendants' use of the Chanel Marks, including the promotion, advertisement,
15 distribution, sale, and offering for sale of the Counterfeit Goods, is without Chanel's consent or
16 authorization.

17 21. Further, Defendants, upon information and belief, may be engaging in the above-
18 described illegal counterfeiting activities knowingly and intentionally, or with reckless disregard
19 or willful blindness to Chanel's rights, for the purpose of trading on the goodwill and reputation
20 of Chanel. If Defendants' counterfeiting activities are not preliminarily and permanently enjoined
21 by this Court, Chanel and the consuming public will continue to be damaged.

22 22. Defendants' infringing activities described above are likely to cause confusion,
23 deception, and mistake in the minds of consumers, the public, and the trade. Moreover,
24 Defendants' wrongful conduct is likely to create a false impression and deceive customers, the
25 public, and the trade into believing a connection or association exists between the Chanel's
26 genuine goods and Defendants' Counterfeit Goods.

-- 23. Chanel has no adequate remedy at law.

1 24. Chanel is suffering irreparable injury and has suffered substantial damages as a
2 result of Defendants' counterfeiting and infringing activities.

3 25. The injuries and damages sustained by Chanel are directly and proximately caused
4 by Defendants' wrongful advertisement, promotion, and sale of their Counterfeit Goods.

5 26. Chanel has retained the undersigned counsel to represent it in this matter and is
6 obligated to pay a reasonable fee for such representation.

7 **COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT**

8 27. Plaintiff incorporates the allegations set forth in Paragraphs 1 through 26 above.

9 28. This action is for trademark counterfeiting and infringement against Defendants
10 based on Defendants' promotion, advertisement, distribution, sale, and/or offering for sale of the
11 Counterfeit Goods bearing the Chanel Marks.

12 29. Specifically, Defendants, upon information and belief, are promoting, and
13 otherwise advertising, selling, offering for sale, and distributing counterfeit and infringing
14 handbags, wallets, and other goods. Defendants are continuously infringing and inducing others
15 to infringe the Chanel Marks by using them to advertise, promote, and sell counterfeit handbags,
16 wallets, and other goods.

17 30. Defendants' counterfeiting activities are likely to cause and actually are causing
18 confusion, mistake, and deception among members of the trade and the general consuming public
19 as to the origin and quality of Defendants' Counterfeit Goods bearing the Chanel Marks.

20 31. Defendants' unlawful actions have caused and are continuing to cause
21 unquantifiable damages to Chanel.

22 32. Defendants' above-described illegal actions constitute counterfeiting and
23 infringement of the Chanel Marks in violation of Chanel's rights under § 32 of the Lanham Act,
24 15 U.S.C. § 1114.

25 33. Chanel has suffered and will continue to suffer irreparable injury due to the above
26 described activities of Defendants if Defendants are not preliminarily and permanently enjoined.

**COUNT II - FALSE DESIGNATION OF ORIGIN PURSUANT TO § 43(a) OF THE
LANHAM ACT**

34. Plaintiff incorporates the allegations set forth in Paragraphs 1 through 26 above.

35. Defendants' Counterfeit Goods bearing the Chanel Marks have been widely advertised and distributed throughout the United States.

36. Defendants' Counterfeit Goods bearing the Chanel Marks are virtually identical in appearance to each of Plaintiff's respective genuine goods. However, the Counterfeit Goods are inferior in quality. Accordingly, Defendants' activities are likely to cause confusion in the trade and among the general public as to the origin or sponsorship of the Counterfeit Goods.

37. Defendants, upon information and belief, have used in connection with their sales of Counterfeit Goods false designations of origin and false descriptions and representations, including words or other symbols which tend to describe or represent such goods falsely and have caused such goods to enter into commerce with possible knowledge of the falsity of such designations of origin and such descriptions and representations, all to the detriment of Plaintiff.

38. Specifically, Defendants, upon information and belief, authorized and engaged in an infringing use of the Chanel Marks in Defendants' advertisement and promotion of their counterfeit and infringing handbags. Defendants, upon information and belief, have misrepresented to members of the consuming public that the Counterfeit Goods being advertised and sold by them are genuine, non-infringing products.

39. Defendants' above-described actions are in violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

40. Plaintiff has sustained injury and damage caused by Defendants' conduct. Absent an entry of an injunction by this Court, Plaintiff will continue to suffer irreparable injury to its goodwill and business reputation as well as monetary damages.

PRAYER FOR RELIEF

41. WHEREFORE, the Plaintiff demands judgment jointly and severally against the Defendants as follows:

1 a. That the Court enter a preliminary and permanent injunction enjoining
 2 Defendants, their agents, representatives, servants, employees, and all those acting in
 3 concert or participation therewith, from manufacturing or causing to be manufactured,
 4 importing, advertising or promoting, distributing, selling or offering to sell their
 5 Counterfeit Goods; from infringing, counterfeiting, or diluting the Chanel Marks; from
 6 using the Chanel Marks and Trade Dress or any mark or trade dress similar thereto, in
 7 connection with the sale of any unauthorized goods; from using any logo, trade name,
 8 trademark, or trade dress which may be calculated to falsely advertise the services or
 9 products of the Defendants as being sponsored by, authorized by, endorsed by, or in any
 10 way associated with the Plaintiff; from falsely representing themselves as being connected
 11 with the Plaintiff, through sponsorship or association, or engaging in any act which is
 12 likely to cause members of the trade and/or the purchasing public to believe any goods or
 13 services of the Defendants are in any way endorsed by, approved by, and/or associated
 14 with the Plaintiff; from using any reproduction, counterfeit, copy, or colorable imitation of
 15 the Chanel Marks in connection with the publicity, promotion, sale, or advertising of any
 16 goods sold by the Defendants, including, without limitation, handbags and/or any other
 17 goods; from affixing, applying, annexing, or using in connection with the sale of any
 18 goods a false description or representation, including words or other symbols tending to
 19 describe or represent Defendants' goods falsely as being those of the Plaintiff, or in any
 20 way endorsed by the Plaintiff, and from offering such goods in commerce; and from
 21 otherwise unfairly competing with the Plaintiff.

22 b. That Defendants be required to account to and pay Plaintiff for all profits
 23 and damages resulting from Defendants' infringing and counterfeiting activities and that
 24 the award to Plaintiff be trebled, as provided for under 15 U.S.C. § 1117, or, at Plaintiff's
 25 election with respect to Count I, that Chanel be awarded statutory damages from each
 26 defendant in the amount of one million (\$1,000,000) dollars per each counterfeit Chanel
 -- Mark used and product sold, as provided by 15 U.S.C. § 1117(c)(2) of the Lanham Act.

1 c. That Plaintiff be awarded punitive damages.

2 d. That Plaintiff be awarded pre-judgment interest on its judgment.

3 e. That Plaintiff be awarded at least treble damages as well as its costs and
4 reasonable attorney fees and investigators fees associated with bringing this action.

5 f. That the Plaintiff be awarded such other and further relief as the Court may
6 deem just and proper.

7
8 Dated: June 12, 2008

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

9
10 By: _____/s/

11 Michael D. Lisi
12 Attorney for Plaintiff,
13 CHANEL, INC.
14
15
16
17
18
19
20
21
22
23
24
25
26
--